

TITLE 205
CHAPTER 3

REGULATIONS PERTAINING TO THE ADMINISTRATION OF SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

001 BUDGET SUBMISSION. The provider shall prepare and submit an annual budget to the Department for the fiscal year beginning the following July 1.

001.01 The budget must be prepared according to guidelines issued by the Department. The budget shall include expenditures by source of funds for the most recently completed fiscal year, from July 1 through June 30; planned expenditures by source of funds for the current or operating fiscal year; and requested funding levels by source of funds for the subsequent or the request year.

001.02 No waiver of 205 NAC 3-001 or its parts shall be granted.

002 CONTRACTS. A provider acting as a contracting authority may enter into written contracts with other providers, acting as a subcontractor for developmental disabilities services, if the contractors hold the appropriate certification and/or licensure.

002.01 The contract must specify:

002.01A The services to be funded;

002.01B The rate of payment;

002.01C The regulations contained within 205 NAC 3, 4 and 5 which the subcontractor must meet and how the contracting authority will determine compliance with these regulations;

002.01D The method for verification of service delivery; and

002.01E Compliance with regulations governing purchase of equipment defined in 205 NAC 3-008.

002.02 The subcontractor must submit an annual financial audit to the contracting authority and to the Department.

003 DATA COLLECTION AND REPORTING. Each provider shall maintain and file data, statistics, schedules, reports and other information as the Division requires.

003.01 The data, statistics, schedules, reports and other information required by the Division will be submitted to the Division in a form, manner and according to timelines set by the Division.

003.02 Failure to comply may result in reduction or withholding of contract payments.

003.03 No waiver of 205 NAC 3-003 or its parts shall be granted.

004 INSPECTIONS. Each provider shall permit inspection of all fiscal, individual program plans and related records by representatives of the Department of Public Institutions as the Department deems necessary and shall allow access for on-site monitoring by Department/Division authorized personnel and shall provide copies of documents upon request.

004.01 No waiver of 205 NAC 3-004 or its parts shall be granted.

005 FISCAL ACCOUNTABILITY. Each provider shall have fiscal and budgetary financial systems that provide accounting for, and the expenditure of, funds administered by and disbursed from the Department.

005.01 Fiscal accountability shall be consistent with principles and standards set by the American Institute of Certified Public Accountants (AICPA).

005.02 Accounting for all funds must be in accordance with generally accepted accounting principles and must be applied consistently.

005.03 Itemization of all income and expenditures must be in sufficient detail to show the exact nature of income and expenditures.

005.04 Any generally accepted accounting system will be satisfactory if it provides for completion of an annual financial expenditures report and meets the following requirements:

005.04A Permits ready accountability of all sources of funding from the respective funding source;

005.04B Maintains payroll authorization to effect proper control of salaries and wages. These authorizations must be approved by an appropriate authority of the provider;

005.04C Maintains payroll vouchers for salaries and wages. If payroll voucher forms are not used, a statement shall be prepared at the end of each pay period showing the name of each employee, position number, gross amount of salary, and all deductions/ contributions such as retirement, Social Security tax, and insurance. This statement should be approved by the appropriate authority of the provider and used in place of a voucher;

005.04D Maintains an itemized record for personnel compensated in whole or in part with room and board;

005.04E Maintains adequate records supporting charges for benefits;

005.04F Maintains adequate records supporting all expenditures for technical assistance, operation of programs, leasing, renting, maintenance of facilities, and services but need not require records for a minimal amount of funds that may be disbursed as petty cash without receipts; and

005.04G Maintains accounting records in sufficient detail to allow for the calculation of the cost of services provided.

005.05 The accounting records must be maintained and disposed of by the provider in accordance with state statutes, Article 12, 'Records Management Act', §§ 84-1201 through 84-1227 and subsequent amendments thereto, or until audit by or on behalf of the Department. In all cases records must be retained until resolution of any audit questions.

005.06 No waiver of 205 NAC 3-005 or its parts shall be granted.

006 ANNUAL AUDIT. The provider shall contract with a certified public accountant licensed to practice in the State of Nebraska for an annual independent audit of its financial operations using generally accepted auditing techniques, consistent with principles and standards set by the AICPA.

006.01 The audit shall be submitted to the Division within ninety (90) days after the end of the fiscal year.

006.02 The audit report must include:

006.02A A review of receipts and disbursements;

006.02B A review of cash control procedures;

006.02C A review of a chart of accounts;

006.02D An audit of the provider's income statement, balance sheet, source and use of funds statement;

006.02E An accounting of lease agreements or mortgages; and

006.02F A review of the cash balance on hand at the beginning and at the end of the fiscal year.

006.03 The provider must prepare and submit a plan to the Division to address the audit recommendations.

006.04 A provider with a total annual operating budget of less than \$75,000 may submit a detailed financial statement providing a review of receipts and disbursements, including a source and use of funds statement, and a statement of fund balances, in lieu of the independent detailed audit.

006.04A The Director shall specify the format of this statement.

006.04B An audit by the Department may be conducted to verify this statement.

006.05 Failure by the provider to comply with 205 NAC 3-006 (and its sub-parts) shall result in the Director of the Department of Public Institutions contracting for an independent audit of the provider's operations. The cost of the audit will be paid by the provider.

006.0 No waiver of 205 NAC 3-006 or its parts shall be granted.

007 ALLOWABLE COSTS. Use of state and/or federal funds administered by the Department are limited to the following:

007.01 The cost of providing approved Department services including employment of personnel, technical assistance, consultation, operation of programs, leasing, renting and maintaining facilities, and for the initiation and continuance of services.

007.02 The use of department administered funds for alteration or renovation costs within a completed structure are allowable under the following conditions:

007.02A Alteration or renovation is needed to accomplish the objectives of the provider and is approved by the Director;

007.02B The space involved will actually be occupied by the provider;

007.02C There is documentation by a suitably qualified individual that the building has a useable life consistent with provider purposes, is structurally suitable for conversion and complies with all applicable state and federal laws and regulations including Title II of the ADA; and

007.02D The alteration or renovation results from a successful bid made in accordance with a Division approved uniform bidding procedure previously adopted in writing by the provider.

007.02E There is, prior to any renovation and alteration of rented space, a lease on the space approved by the contracting authority.

008 UNALLOWABLE COSTS. Any costs not properly related to carrying out the purpose of the contract are unallowable. Costs which are determined to be unallowable and not eligible for payment by developmental disabilities funds administered by the Department include but are not limited to:

008.01 Costs for services occurring in a prior or subsequent fiscal year;

008.02 Contributions to a fund whose principal, interest, purpose and/or use is concealed from the Department without specific written prior approval by the Department;

008.03 Costs for personal gifts and any personal costs unrelated to the provision of approved services;

008.04 Costs for amusements, social activities, and related expenses of employees not directly related to the habilitation of persons receiving services;

008.05 Costs for luncheons or dinners held to award employees;

008.06 Transfer of funds to other organizations and/or providers except as authorized in writing by the Director of the Department of Public Institutions;

008.07 Costs for alcoholic beverages;

008.08 Costs resulting from violations of, or failure to comply with federal, state and local laws and regulations;

008.09 Costs relating to lobbying or attempts to influence/ promote legislative action by local, state or federal government entities.

008.10 Costs for lawsuits, legal, or court proceedings against the Department or State of Nebraska; and

008.11 Construction of buildings, alteration and renovation costs that constitute new construction. Such alterations and renovations include relocation of exterior walls, roofs and floors or completion of unfinished shell space to make it suitable for human occupancy.

008.12 No waiver of 205 NAC 3-009 or its sub-parts shall be granted.

009 PROPERTY RENTAL OR LEASE. The provider may enter into a new or renewed property rental, or lease agreement with a staff member, a staff member's immediate family (immediate family is defined as the spouse of an individual, a child residing in an individual's household or an individual claimed as a dependent for federal income tax purposes); a partnership, limited partnership, trust, or corporation in which the staff member serves in any capacity and/or has a pecuniary interest, when the rental or lease agreement results from a successful bid made in accordance with a uniform bidding procedure previously adopted in writing and approved by the contracting authority. The uniform bidding procedure used must be approved by the Division.

09.1 No waiver of 205 NAC 3-010 or any of its parts shall be granted.

010 EQUAL OPPORTUNITY. All Governing Boards and their contracting providers, regardless of the number of staff or amount of funds received from the Department, shall abide by all of the applicable federal, state and local laws and regulations as they relate to affirmative action and equal employment opportunity.

010.01 Discrimination which is prohibited by one or more of these laws or regulations include discrimination based on age, color, national origin, race, religion, marital status, disability, or sex.

010.02 The types of activities that are covered include but are not limited to: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

010.03 All governing boards and their contracting providers shall develop policy statements concerning affirmative action, equal employment opportunity, sexual harassment, and chronic infectious diseases in compliance with all applicable federal, state and local laws and regulations.

010.04 The provider shall prepare an affirmative action plan or related policy statements if such is required by the Department.

010.05 The provider shall comply with all affirmative action compliance review procedures deemed necessary by the Department.

Source: Neb. Rev. Stat. § 83-1, 143.06

Neb. Rev. Stat. § 83-368

Neb. Rev. Stat. § 83-1202

Neb. Rev. Stat. § 83-1209

Neb. Rev. Stat. § 83-1211

Neb. Rev. Stat. § 83-1217

Neb. Rev. Stat. § 83-1218

Neb. Rev. Stat. § 83-1226